

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re PARMALAT SECURITIES LITIGATION

This document relates to:

Smith v Bank of America Corp., et al.,
Case No. 06-00383 (LAK)

GERALD K. SMITH as the Litigation Trustee of the
Farmland Dairies LLC Litigation Trust,

v.

BANK OF AMERICA CORPORATION, et al.

G. PETER PAPPAS, as the Plan Administrator of the
Plan of Liquidation of Parmalat-USA Corporation,

v.

BANK OF AMERICA CORPORATION, et al.

MASTER DOCKET

04 MD 1653 (LAK) ECF Case

Case No. 06 CIV. 00383 (LAK)

ELECTRONICALLY FILED

Case No. 06 CIV. 03109 (LAK)

ELECTRONICALLY FILED

MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL

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Litigation Trust and Plaintiff G. Peter Pappas as the Plan Administrator of the Plan of
Liquidation of Parmalat-USA Corporation

Come now Plaintiffs, Gerald K. Smith and G. Peter Pappas, by and through undersigned counsel, and respectfully move for this Court's Order granting them leave to file the following documents under seal pursuant to the Stipulated Protective Order entered by the Court on August 3, 2005 (hereinafter "Protective Order"):

1. Motion to Alter or Amend the Judgment And Other Relief pursuant to Federal Rule of Civil Procedure 59;
2. Declaration of Robert T. Mills with attached exhibits 1 through 54;
3. Proposed Third Amended Complaint in *Smith v. Bank of America, et al.*; and
4. Proposed Third Amended Complaint in *Pappas v. Bank of America, et al.*

On Friday, September 7, 2007, Plaintiffs attempted to physically file the foregoing documents under seal pursuant to the Protective Order. However, the Clerk of the Court refused to accept these documents for filing under seal pursuant to the Protective Order on the ground that the filing was too voluminous. Accordingly, Plaintiffs on Friday, September 7, 2007, electronically filed the foregoing documents in redacted form, less the exhibits to the Declaration which had previously been designated "Confidentially Designated Information" within the meaning of the Protective Order. Also on that date, Plaintiffs' counsel served on each of the parties via email the foregoing documents, both in redacted and unredacted form, together with the exhibits, which were served on compact discs.

The aforementioned exhibits to the Declaration consist of the product of discovery which has occurred in this case since the filing of Plaintiffs' Second Amended Complaints. Plaintiffs submit these exhibits for consideration by the Court in connection with the Court's consideration of Plaintiffs' Motion Pursuant to Federal Rule of Civil Procedure 59 to Alter or Amend the Judgment And Other Relief. The exhibits are submitted as support for the Motion and for allegations in Plaintiffs' Proposed Third Amended Complaints. Plaintiffs respectfully submit

that their request for leave to amend their Complaints should not be considered in a vacuum, but rather also in light of the substantial discovery which has occurred and which supports the allegations of the Complaints. Plaintiffs submit these exhibits to ensure that there is a complete record in this case. Recognizing that the exhibits attached to the Declaration are covered by the Protective Order, and in light of the Clerk's refusal to accept the filing under seal, Plaintiffs respectfully request that this Court grant them leave to file those exhibits under seal, and that the other documents referenced above, including the unredacted Rule 59 motion, the proposed amended complaints, and the Declaration of Robert T. Mills be placed under seal as well because information contained in those documents may also constitute "Confidentially Designated Information" within the meaning of the Protective Order.

CONCLUSION

WHEREFORE Plaintiffs respectfully request leave to file and to have placed under seal the above-referenced documents.

RESPECTFULLY SUBMITTED this 7th day of September, 2007.

s/Robert T. Mills

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as the Litigation Trustee of the
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Certificate Of Service

The undersigned hereby certifies that the foregoing Motion for Reconsideration was electronically served on all parties registered with the Court's CM\ECF system in this matter.

s/Robert T. Mills